

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GREGORIO A. MALDONADO,  
Plaintiff,  
v.  
WILLIAMS, et al.,  
Defendants.

Case No. [16-cv-04406-SI](#)

**ORDER DISMISSING TWO  
DEFENDANTS AND SETTING  
BRIEFING SCHEDULE**

Re: Dkt. No. 16

On December 11, 2016, the court found that the *pro se* prisoner's civil rights complaint stated a cognizable Eighth Amendment claim against correctional officers Cano, Lee and Williams for deliberate indifference to plaintiff's safety, and ordered service of process on these three defendants. Defendant Cano was served with process and has appeared in this action. The Marshal was unable to serve process on defendants Lee and Williams with the information provided -- which consisted of only their last names and their reported employment at San Quentin State Prison. Docket Nos. 7 and 8.

On April 11, 2017, the court ordered that, no later than May 12, 2017, "plaintiff must provide information further identifying correctional officer Lee and correctional officer Williams so that they may be served with process. . . . [or] show cause by that same deadline why he has not provided the information needed to locate the defendants and serve process on them." Docket No. 16 at 2. The court also cautioned plaintiff that if he did not provide sufficient information to enable service of process (or show cause for his failure to do so), the unserved defendants would be dismissed without prejudice. *Id.*

The deadline has passed, and plaintiff has not provided any information to enable service of process on the unserved defendants or shown cause for his failure to do so. Accordingly,

1 defendants Lee and Williams are DISMISSED from this action because plaintiff failed to comply  
2 with Federal Rule of Civil Procedure 4(m). The dismissal of these defendants is without prejudice  
3 to plaintiff filing a new action against them if he ever learns their names.

4 With the dismissal of those two defendants, there remains for adjudication the Eighth  
5 Amendment claim against defendant Cano for deliberate indifference to plaintiff's safety. The  
6 court now sets the following briefing schedule for a motion for summary judgment on that claim.

7 a. No later than **July 21, 2017**, defendant must file and serve a motion for  
8 summary judgment. If defendant is of the opinion that this case cannot be resolved by summary  
9 judgment, defendant must so inform the court prior to the date the motion is due.

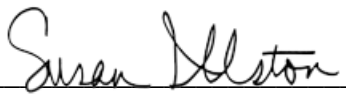
10 b. No later than **August 18, 2017**, plaintiff must file with the court, and serve  
11 on defense counsel, his opposition to the motion for summary judgment.

12 c. If defendant wishes to file a reply brief, the reply brief must be filed and  
13 served no later than **September 1, 2017**.

14 Plaintiff is reminded to read the notice and warning regarding summary judgment provided  
15 in the order of service as he prepares his opposition to any motion for summary judgment.  
16 Defendant is reminded that he must provide to plaintiff a new *Rand* notice regarding summary  
17 judgment procedures at the time he files his motion for summary judgment. *See Woods v. Carey*,  
18 684 F.3d 934, 939 (9th Cir. 2012); *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998).

19 **IT IS SO ORDERED.**

20 Dated: June 1, 2017

21   
22 SUSAN ILLSTON  
23 United States District Judge  
24  
25  
26  
27  
28